

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

PHILLIP ELMORE,

Petitioner, : Case No. 1:07-cv-776

- vs -

Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

MARC C. HOUK, Warden,

:
Respondent.

ORDER TO FILE CORRECTED THIRD AMENDED PETITION

This capital habeas corpus case is before the Court upon the filing of Petitioner's Third Amended Petition (ECF No. 140), accompanied by Petitioner's Notice (ECF No. 141) that the Third Amended Petition does not comply with the Magistrate Judge's Amended Standing Order of November 15, 2015, which requires, *inter alia*, that “[a]ll references to the record in this Court must be to the filed document by title, electronic filing docket number, and PageID reference. (E.g., Defendants' Motion to Dismiss, ECF No. 27, PageID ____).”

In order to make compliance with the Standing Order possible, the Respondent refiled the record on January 8, 2018 (ECF No. 188, 189). At that time Petitioner's counsel were already aware that they faced a February 1, 2018, deadline for filing the Third Amended Petition; that deadline was set on December 29, 2017 (ECF No. 137). Instead of moving the Court for an extension of the deadline, counsel filed a non-complying document and “notified” the Court that it would take another sixty days to file a complying document, “given counsel's previously scheduled due dates in other cases,” none of which are disclosed (ECF No. 141, PageID 12095). The Court is advised that both trial attorneys are “solo practitioners and do not employ any staff.”

The Magistrate Judge's Standing Order is intended and designed to create a record that is manageable by this Court and the Sixth Circuit. It is not acceptable practice for attorneys to violate a court order and then essentially give themselves a "bootstrap" extension of time to comply. Accordingly, the non-complying Third Amended Petition is STRICKEN. Petitioner shall file a complying Third Amended Petition not later than March 1, 2018.

February 5, 2018.

s/ *Michael R. Merz*
United States Magistrate Judge